

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

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October 10, 2001

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR October 2001

CONTENTS:

This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal related legislation.

Note: This information can be accessed through the Commission's World Wide Web Homepage at
www.coastal.ca.gov

IMPORTANT LEGISLATIVE DATES

The California State Legislature re-convened on January 3, 2001. The California Coastal Commission is not sponsoring any bills this session.

Aug. 20	Legislature Reconvenes
Aug. 31	Last day for fiscal committees to meet and report bills to Floor
Sept. 7	Last day to amend bills on the Floor
Sept 14	Last day for each house to pass bills, Interim Recess begins
Oct. 14	Last day for Governor to sign or veto bills

Please contact Sarah Christie, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

PRIORITY LEGISLATION

ACR 20 (Pavley) California Coastal Trail

This resolution recognizes the California Coastal Trail as a trail of statewide significance, and reaffirms the Legislature's support for the timely planning, siting and construction of the trail.

Introduced 2/14/01
Status **Chaptered**, Resolution Chapter No. 99
Commission Position Support

ACR 109 (Pavley) Coastal Cleanup Day

This resolution proclaims September 15, 2001, as the 17th annual Coastal Cleanup Day in California.

Introduced 08/28/2001
Status **Chaptered**, Resolution Chapter No. 137

AB 62 (Migden) Sudden Oak Death Syndrome

This bill would appropriate \$4.6 million to the Department of Forestry and Fire Protection for the purpose of developing and implementing procedures for the control and management of Sudden Oak Death Syndrome (Phytopthera fungus) subject to budget approval. The Department would be required to assist local governments and property owners in identifying, removal and disposal of trees dying as a result of SODS.

Introduced 12/04/00
Last Amended 09/10/01
Status Passed Assm. Natural Resources Com, Passed Assm. Appropriations, Passed Assm. Floor, Passed Senate NR&W, Passed Sen. Appropriations, Passed Senate Floor, Passed Assm. Concurrence, **Enrolled**
Commission Position Support

AB 104 (Nation) Coastal Conservancy, Motor Vehicle Mitigation Fund

This bill would authorize the Coastal Conservancy This bill would authorize the conservancy to establish the Motor Vehicle Mitigation Subaccount, for the acquisition of open space, and the protection, restoration, and enhancement of streams, creeks, wetlands and watersheds. The bill would impose a fee of up to \$4, to be collected by the Department of Motor Vehicles, upon the registration or renewal of registration of every motor vehicle registered in the county of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, or Sonoma for purposes of funding the account, should at least three of those counties choose to participate in the program. Ten percent of the funds collected would go to the Regional Water Quality Control Board to fund transportation-related water quality projects.

Introduced 01/12/01
Last Amended 09/12/01
Status Passed Assm. Natural Resources, Passed Assm. Transportation; Passed Assm Appropriations, Passed Assembly Floor, Passed Sen. NR&W, Passed Sen. Trans; Passed Sen. Appropriations, Passed Senate Floor, Passed Assm. Concurrence, **To Enrollment**

AB 107 (Nation) Wrecks and Wrecked Property

This bill would amend the Harbors and Navigations Code to reduce by half the amount of time required to elapse before an abandoned or derelict vessel on public lands or tidelands within municipal or corporate jurisdiction may be sold. This bill would also triple the allowable amount of fee that can be against owners of derelict or abandoned vessels by a municipality or corporation. This bill would authorize removal of any vessel illegally moored for more than 72 hours when the vessel is docked without valid registration and deemed to be in an unseaworthy condition.

Introduced	01/16/01
Last Amended	06/04/01
Status	Passed Assm. Transportation, Assm. Appropriations, Assm. Floor. Referred to Senate Judiciary Committee, Held in Senate Judiciary Committee

AB 388 (Strom-Martin) Industrial Hemp: Research

This bill authorizes privately funded research on industrial hemp to be conducted in California after the State Department of Justice issues a State controlled substance registration and the federal Drug Enforcement Administration issues a federal controlled substance registration for research on the agronomic potential of industrial hemp. The Department of Justice shall monitor all phases of the research. Provides for disclosure requirements of research information and data.

Introduced	02/20/01
Last Amended	08/27/01
Status	Passed Assm. Natural Resources, Passed Assm. Appropriations, Passed Assm. Floor, Referred to Senate Ag & Water Resources, Held in Senate Ag & Water Resources

AB 556 (Jackson) Oil and Gas Development: Pipelines

AB 556 would amend Section 30262 of the Coastal Act to require that any new or expanded oil production extracted off the coast of California be transported by pipeline, rather than tanker or barge, to onshore processing and refining facilities, and that all pipelines used to transport this oil utilize the best achievable technology to ensure maximum protection of public health and safety and productivity of terrestrial and marine ecosystems. In cases where overland transport by pipeline is infeasible, shipment of crude oil may be permitted by other modes of environmentally sound onshore transportation such as trains and trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

Introduced	02/21/01
Last Amended	04/30/01
Status	Passed Assm. Natural Resources, Passed Assm. Appropriations, Inactive File Assm. Floor

Commission Position Support

AB 560 (Jackson) Local Used Oil Collection Programs: Pollution

This bill relates to the Used Oil Recycling Fund. It authorizes a local government that has implemented a used oil collection program to include in the program provisions for the mitigation and the collection of oil and oil byproducts, including other solid waste from stormwater runoff that may be mixed with oil and oil byproducts through the use of certain devices. Prohibits local government from receiving a block grant unless it has a stormwater management program.

Introduced	02/21/01
Last Amended	09/04/01
Status	Passed Assm. ES&TM Committee, Passed Assm. Appropriations, Passed Assm., Passed Sen. Ag & Water Committee, Passed Sen. Appropriations, Passed Senate Floor, Passed Assm. Concurrence, Enrolled

AB 639 (Nakano) Coastal Waters: Contamination

AB 639 would direct the State Water Board to conduct pilot programs at three public beaches with high closure rates for the purpose of identifying best management practices for the control and management of polluted runoff.

Introduced	02/22/01
Last Amended	08/22/01
Status	Passed Assm. ES & TM Committee, Passed Assm. Appropriations, Passed Assm. Floor, Passed Sen. E.Q, Passed Sen. Appropriations, Passed Senate Floor, Passed Assm. Concurrence, Enrolled

AB 640 (Jackson) Coastal Resources: Certified Local Programs

This bill would amend Section 30519.5 of the Coastal Act, relating to Periodic Reviews of Local Coastal Programs. The legislative findings related to changed circumstances and out-dated LCPs direct the Commission and local governments to undertake, as expeditiously as possible, the review of previously certified LCPs and take corrective measures as necessary to ensure that implementation meets the goals and policies of the Coastal Act. The bill provides that if, after public hearings and notifications as prescribed in the bill, a local government elects not to amend its LCP as recommended by the Commission, the Commission may vote to:

- a) Not process any further amendments to the affected local coastal program until the local government takes the actions recommended by the Commission;
- b) Review on appeal any permits issued by the local Government;
- c) Review all appeals using the Chapter 3 policies of the Coastal Act, not the LCP as the standard of review.

Introduced	02/22/01
Last Amended	05/01/01
Status	Passed Assm. Natural Resources, Passed Assm. Appropriations, Assm. Inactive File
Commission Position	Support

AB 715 (Wayne) Oil Spill Prevention & Response: Ballast Water

This bill would repeal provisions providing for interim marine facility and vessel oil spill contingency plans. Prohibits operation of a nontank vessel of 300 gross tons or greater in the marine waters of the state unless the owner or operator submits an oil spill contingency plan to the administrator for oil spill response. Defines nontank vessel, Oil Spill Response Organization, tank barge and tank ship. Authorizes a fee to process an OSRO rating application or renewal.

Introduced	02/22/01
Last Amended	09/12/01
Status	Passed Assm. Natural Resources, Passed Assm. Appropriations, Passed Assm. Floor, Passed Senate NR & W, Passed Senate Appropriations, Passed Senate Floor, Passed Assm. Concurrence, Enrolled

AB 759 (Shelley) Personal Watercraft: bans

This bill would allow any city or county to adopt an ordinance banning the use of personal watercrafts (jetskis) in any navigable waterway within the jurisdiction of the city or county. The bill would authorize fines of up to \$200 for violation of the ordinance.

Introduced	02/22/01
Last Amended	05/14/01
Status	Passed Assm. Transportation, Assembly Inactive File

AB 949 (Kehoe) Natural Community Conservation Plans

This bill would allow Natural Community Conservation Plans to provide for the conservation of wetlands and wetland-dependent species that are not subject to federal jurisdiction. With respect to coastal wetlands, as defined in Section 30121 of the Public Resources Code, this bill requires NCCPs to meet the requirements of the California Coastal Act.

Introduced	02/23/01
Last Amended	05/01/01
Status	Passed Assm. Water Parks & Wildlife, Assm. Appropriations Suspense File

AB 960 (Keely) Crime Prevention

This bill would appropriate \$300,000 from the General Fund to continue funding the California District Attorneys Association's Environmental Circuit Prosecution Project, and to perform an evaluation of the project. The project has convened two multi-agency enforcement task forces on the North Coast, in which Coastal Commission participates.

Introduced	02/23/01
Last Amended	09/07/01
Status	Passed Assm. Public Safety Committee, Passed Assm. Appropriations, Passed Assembly Floor, Passed Senate Public Safety, Passed Sen. Appropriations, Passed Senate Floor, Passes Assm. Concurrence, Enrolled
Commission Position	Support

AB 985 (Florez) Fully Protected Species

This is a spot bill relating to the Fully Protected Species Act. The author intends to hold public hearings and workshops this summer before submitting final language.

Introduced	02/23/01
Last Amended	08/29/01
Status	Passed Assm. WP&W Committee, Passed Assm. Appropriations Committee, Passed Assembly Floor, Referred to Sen. NR&W, Rule Waiver Denied

AB 1011 (Pavley) County Records

This bill would require the county recorders to maintain a comprehensive index of conservation easements recorded within the county, and to transmit a copy of any conservation easement to the county assessor, once the easement has been recorded, after January 1, 2002. Conservation easements are defined in the bill as including any easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to that easement and is binding upon successive owners of the land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.

Introduced	02/23/01
Last Amended	09/07/01
Status	Passed Assm. Local Government Committee, Passed Assm. Appropriations, Passed Assembly Floor, Passed Sen. Local Government; Passed Sen. Judiciary Committee, Passed Sen. Appropriations, Passed Senate Floor, Passed Assm. Concurrence, Enrolled
Commission Position:	Support

AB 1108 (Pavley) Santa Monica Mountains: transfer of land

This bill would allow the Resources Secretary to directly acquire lands held by the State Controller, that have been identified by the Secretary as having significant statewide resource value, without an appropriation of state funds. The bill is limited to lands within the Santa Monica Mountains zone.

Introduced 02/23/01
Status Passed Assm. Natural Resources Committee, Referred to Assm. Appropriations Suspense File

AB 1145 (Jackson) Regional Open Space District: County of Ventura

This bill would allow the Ventura County Board of Supervisors to form a regional open space district by way of resolution, and to place the formation of the district on a ballot within the county of Ventura.

Introduced 02/23/01
Status Passed Assm. Local Government Committee, Assembly Floor Inactive File

AB 1172 (Keeley) Natural Community Conservation Planning

This bill would require the Department of Fish and Game, in three year intervals, to prepare and submit to the Legislature a report on the functioning and effectiveness of the NCCP Act. The report would include an evaluation of the functioning and effectiveness of the program, an inventory of NCCP plans underway or in the process of review, and the science being utilized in the preparation of those plans.

Introduced 02/23/01
Status Passed Water Parks and Wildlife Committee, Passed Assm. Appropriations, Passed Assembly, Referred to Sen. NR&W Committee

AB 1192 (Pavley) Water Quality and Watershed Protection Act of 2002

This bill would enact the Water Quality and Watershed Protection Act, authorizing the financing of the program through the sale of general issue bonds of an unspecified amount. The money would be used for grants and loans to local agencies to implement pilot projects for storm water quality improvement, water conservation and recycling, watershed restoration, nonpoint source pollution control and other specified water quality projects.

Introduced 02/23/01
Last Amended 05/01/01
Status Passed Environmental Safety and Toxic Materials Committee, Referred to Assm. Appropriations Committee

AB 1256 (Harman) Bolsa Chica

This bill would require the Department of Parks and Recreation, in consultation with Department of Fish and Game and the State Department of Education, to study options for the future purchase of the Bolsa Chica Mesa, including a consideration of its public recreational uses, and report back to the Legislature by January 1, 2002.

Introduced 02/23/01
Last Amended 05/25/01
Status Passed Assm. Water Parks and Wildlife Committee, Passed Assm. Appropriations Committee, Passed Assembly Floor, Passed Senate NR&W, Referred to Sen. Appropriations, Enrolled to Governor, **Vetoed by Governor**

AB 1414 (Dickerson) Public Lands

This bill would require the Department of Fish and Game to prepare a draft management plan within 18 months for any properties acquired after January 1, 2001. It would also require the Resources Agency, in conjunction with departments, boards and conservancies, to develop and maintain a database of lands and easements that have been acquired by the departments and boards within the agency, and to prepare an annual report of expenditures made using Parks Bond monies through January 1, 2010. Substantial amendments to this bill have allowed staff to recommend changing the Commission's position from oppose to neutral. (Bill language attached).

Introduced 02/23/01
Last Amended 09/14/01
Status Passed Assm. Natural Resources, Passed Assm. Appropriations, Passed Assembly Floor;
Passed Sen. NR&W; Passed Sen. Appropriations; On Senate Floor
Commission Position **Recommend Neutral**

AB 1561 (Kelley) An Act Relating to Water

This bill authorizes the Department of Fish and Game and the Fish and Game Commission to authorize the taking of certain birds and fully protected species if the taking it related to interstate conservation program and project agreements. Deems certain statutory requirements relating to impacts or potential impacts at the Salton Sea on any species resulting from conservation measures, water transfers and any other actions carried out in furtherance of a specified agreement.

Introduced 02/23/01
Last Amended 09/04/01
Status Passed Assm. WP&W Committee, Passed Assm Appropriations, Passed Assm. Floor,
Referred to Sen. NR&W, Rule Waiver Denied

AB 1598 (Hollingsworth) Fully Protected Species

This is a spot bill relating to the taking of fully protected species.

Introduced 02/23/01
Last Amended 05/01/01
Status Passed Assm WP&W Committee, Referred to Assm. Appropriations, Held in Committee

AB 1602 (Keeley) California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002

This bill would enact the Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002. It would finance a program for the acquisition, development, restoration, protection, rehabilitation, preservation and interpretation of park, coastal, and historical resources with the issuance of \$2.1 billion in general obligation bonds, including \$200 million for the State Coastal Conservancy and \$40 million for the Santa Monica Mountains Conservancy. Requires voter approval.

Introduced 02/23/01
Last Amended 09/14/01
Status Passed Assm. Natural Resources; Passed Assm. Appropriations, Passed Assembly,
Passed Senate Natural Resources Committee; Passed Sen. Appropriations; Passed Senate
Floor, Urgency Clause Adopted, Passed Assm. Concurrence, To Enrollment

SB 1 (Alpert) California Endowment for Marine Preservation

This bill would create the California Endowment for Marine Preservation, and the California Marine Resources Trust Fund, to be administered as proscribed by the bill. Both funds would receive a portion of the savings afforded to owner/operators of offshore oil and gas platforms, in the event they choose to participate in a "Rigs to Reefs" program, to be administered by the Department of Fish and Game, in consultation with the Commission, State Lands Commission, BCDC and Minerals Management Service.

Introduced	12/04/00
Last Amended	09/12/01
Status	Passed N.R.&W. Committee, Passed Sen. Appropriations, Passed Senate Floor, Passed W.P.&W Committee, Passed Assm. Appropriations, Passed Assm. Floor, Passed Senate Concurrence, To Enrollment

SB 31 (Chesbro) Sudden Oak Death Syndrome: Funding

This bill would appropriate \$10.265 million to the Department of Forestry and Fire Protection for the purpose of developing and implementing procedures for the control and management of Sudden Oak Death Syndrome (Phytopthera fungus). The Department would be required to assist local governments and property owners in identifying, remove and dispose of trees ding as a result of SODS. The bill would take effect immediately as an Urgency statute. This bill makes the same appropriation as AB 64.

Introduced	12/04/00
Last Amended	02/22/01
Status	Passed N.R.&W. Com, Referred to Senate Appropriations
Commission Position	Support

SB 107 (Sher) Natural Community Conservation Planning

This bill would repeal the Natural Community Conservation Planning Act of 1982, and replace it with the new Act. This bill would authorize the Department of Fish and Game to enter into agreements with local governments and private property owners for the purpose of allowing 'take' of species covered by the plan, subject to certain standards relating to collection of data, application of scientifically sound principles, and a process for public participation. (Bill language attached.)

Introduced	01/22/01
Last Amended	09/14/01
Status	Passed N.R.&W. Committee, Passed Senate Appropriations, Passed Senate Floor, Passed Assm. W.P.&W. Committee, Passed Assm. Appropriations, Passed Assm. Floor, To Senate for Concurrence

SB 116 (Kuehl) State Parks: roads, construction and improvement

This bill would prohibit the construction of roads by any state or local agency

Introduced	01/24/01
Last Amended	03/20/01
Status	Passed N.R. & W. Committee, Passed Senate Appropriations, Passed Senate Floor, Held in Assm. WP&W Committee

SB 124 (Johnson) Property Transfer

This bill would require the Department of Transportation to transfer a 15-acre parcel of open space from the Department of Transportation to the Department of Parks and Recreation, for a sum of \$1,356,485, contingent upon the city's agreement to manage and improve the parcel as a public park. The parcel is located in the coastal zone adjacent to Pacific Coast Highway in the City of Newport Beach.

Introduced	01/25/01
Last Amended	06/04/01
Status	Passed Governmental Organization Comm., Passed Senate Appropriations, Passed Senate Floor, Passed Assm. B.&P. Committee; Passed Assm. Appropriations, Passed Assm. Floor, Enrolled

SB 142 (Haynes) Religious Practices

This bill would prohibit any city or county from enacting regulations in residential land use categories which would impose a burden on religious practices, including but not limited to Bible studies and prayer meetings in private residences.

Introduced	01/29/01
Last Amended	05/08/01
Status	Passed Senate Local Government Committee, Failed Senate Judiciary Committee. Reconsideration Granted

SB 196 (Burton/Chesbro) Coastal and Historic Bond Act

This bill would enact the Resources Legacy Bond Act of 2002. It would authorize the issuance of state bonds for the purpose of financing a program for the acquisition, development, restoration, protection, rehabilitation, stabilization, reconstruction, preservation and interpretation of park, coastal protection, agricultural land preservation, air pollution prevention and historical resources.

Introduced	02/08/01
Last Amended	09/06/01
Status	Passed Senate NR&W Committee, Passed Senate Appropriations Committee, Passed Senate Floor, Held at Assm. desk, Passed Assm. WP&W Committee, Referred to Assm. Natural Resources Committee, To Suspend

SB 497 (Sher) Land Use: Certificates of Compliance

This bill would amend the Subdivision Map Act (SMA). This bill clarifies existing law and brings the statute back to its original intent in the following ways:

- 1) Clarifies that illegally created lots must receive conditional certificates of compliance.
- 2) Limits the "lot line adjustment exemption" in the SMA to four or fewer lots.
- 3) Clarifies that new parcels created via lot line adjustment must be consistent with all applicable general plan and local coastal program (LCP) policies.

Introduced	02/22/01
Last Amended	09/04/01
Status	Passed Senate Local Government Committee, Passed Senate Floor, Passed Assm. Local Government Committee, Passed Assm. Floor, Passed Senate Concurrence, Enrolled

SB 516 (Johnson) Local Coastal Programs

This bill would allow the County of Orange to continue to implement the Irvine Coast LCP for that portion of the Irvine Coast which will be annexed by the City of Newport Beach. This bill creates the Newport Beach LCP Forfeiture Account for the deposit of fines accrued as specified in the bill. Urgency clause adopted.

Introduced	02/22/01
Last Amended	06/25/01
Status	Passed Senate Local Government Committee, Passed Senate Appropriations Committee, Passed Senate Floor, Passed Assm. Natural Resources Committee; Passed Assm. Local Gov. Committee; Passed Assm. Appropriations, Passed Assm. Floor, Passed Senate Concurrence, Enrolled
Commission Position	Neutral

SB 908 (Chesbro) California Coastal Trail

This bill would require the Coastal Conservancy, in consultation with the Coastal Commission and the Department of Parks and Recreation, to develop a plan designating the primary hiking route and alternate routes for the California Coastal Trail, to estimate of costs of acquiring and developing the trail, and a description of where the trail might connect with existing, inland trail routes. The Commission's current position is Support if Amended. The bill has been amended to reflect the Commission's concerns.

Introduced	02/23/01
Last Amended	09/05/01
Status	Passed N.R.&W. Committee, Passed Senate Appropriations, Passed Senate Floor, Passed Assm. Natural Resources Committee; Passed Assm. Appropriations, Passed Assm. Floor, Passed Senate Concurrence, Enrolled
Commission Position	Support

SB 1069 (Chesbro) Plastic Pollution Prevention Fee

This bill would amend the California Integrated Waste Management Act to require manufacturers of plastic containers to increase plastic recycling rates to at least 50%. This bill would authorize the California Integrated Waste Management Board to adopt regulations to implement the bill.

Introduced	02/23/01
Last Amended	04/30/01
Status	Passed Senate Env. Quality Committee, Senate Appropriations Suspense File
Commission Position	Support

SB 1164 (Sher) Local Coastal Programs: Costs

This bill would amend Section 30353 of the Public Resources Code to allow local governments to recover from the state costs incurred as a result of defending local actions pursuant to local coastal programs prior to the rendering of judgement if the Attorney General has intervened in support of the local government's position and the amount paid does not exceed \$500,000. Local governments would repay the state from any costs recovered as a result of final judgement. The bill would require the Director of the Commission, in consultation with the Attorney General, to establish procedures for the payment of litigation costs.

Introduced	02/23/01
Status	Passed N.R.&W. Committee, Passed Senate Floor, Passed Assm. Natural Resources Committee, On Assembly Floor, To Assm. Floor Inactive File

AMENDED IN ASSEMBLY SEPTEMBER 14, 2001

AMENDED IN ASSEMBLY SEPTEMBER 10, 2001

AMENDED IN SENATE MAY 2, 2001

SENATE BILL

No. 107

Introduced by Senator Sher

January 22, 2001

An act to repeal and add Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, relating to natural community conservation planning, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 107, as amended, Sher. Natural community conservation planning.

(1) The existing Natural Community Conservation Planning Act authorizes the Department of Fish and Game to enter into an agreement with any person for the purpose of preparing and implementing a natural community conservation plan to provide comprehensive management and conservation of multiple wildlife species.

This bill would repeal that act and would enact a new Natural Community Conservation Planning Act. The bill would authorize the department to enter into agreements, which would be required to meet specified conditions, with any person or public entity for the purpose of preparing a natural community conservation plan to provide comprehensive management and conservation of multiple wildlife species. The bill would require the agreement to meet specified conditions.

The bill would require the department to establish a process for public participation throughout plan development and review to ensure

that interested persons have an adequate opportunity to provide input in the process.

The bill would require each natural community conservation plan to include an implementation agreement governing specified matters.

The bill would authorize the department to be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans.

(2) Existing law continuously appropriates the money in the Fish and Game Preservation Fund to the department and the Fish and Game Commission to carry out the Fish and Game Code.

Because this bill would impose duties on the department, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 10 (commencing with Section 2800) of
2 Division 3 of the Fish and Game Code is repealed.

3 SEC. 2. Chapter 10 (commencing with Section 2800) is added
4 to Division 3 of the Fish and Game Code, to read:

5

6 CHAPTER 10. NATURAL COMMUNITY CONSERVATION PLANNING
7 ACT
8

9 2800. This chapter shall be known, and may be cited, as the
10 Natural Community Conservation Planning Act.

11 2801. The Legislature finds and declares all of the following:

12 (a) The continuing population growth in California will result
13 in increasing demands for dwindling natural resources and result
14 in the continuing decline of the state's wildlife.

15 (b) There is a need for broad-based planning to provide for
16 effective protection and conservation of the state's wildlife
17 heritage while continuing to allow appropriate development and
18 growth.

19 (c) Natural community conservation planning is an effective
20 tool in protecting California's natural diversity while reducing
21 conflicts between protection of the state's wildlife heritage and
22 reasonable use of natural resources for economic development.



1 (d) Natural community conservation planning promotes
2 coordination and cooperation among public agencies, landowners,
3 and other private interests, provides a mechanism by which
4 landowners and development proponents can effectively address
5 cumulative impact concerns, promotes conservation of
6 unfragmented habitat areas, promotes multispecies and
7 multihabitat management and conservation, provides one option
8 for identifying and ensuring appropriate mitigation that is roughly
9 proportional to impacts on fish and wildlife, and promotes the
10 conservation of broad-based natural communities and species
11 diversity.

12 (e) Natural community conservation planning can provide for
13 efficient use and protection of natural and economic resources
14 while promoting greater sensitivity to important elements of the
15 state's critical natural diversity.

16 (f) Natural community conservation planning is a voluntary
17 and effective planning process that can facilitate early
18 coordination to protect the interests of the state, the federal
19 government, and local public agencies, landowners, and other
20 private parties.

21 (g) Natural community conservation planning is a mechanism
22 that can provide an early planning framework for proposed
23 development projects within the planning area in order to avoid,
24 minimize, and compensate for project impacts to wildlife.

25 (h) Natural community conservation planning is consistent
26 with, and will support, the fish and wildlife management activities
27 of the department in its role as the trustee for fish and wildlife
28 within the state.

29 (i) The purpose of natural community conservation planning is
30 to sustain and restore those species and their habitat identified by
31 the department that are necessary to maintain the continued
32 viability of those biological communities impacted by human
33 changes to the landscape

34 (j) Natural community conservation planning is a cooperative
35 process that often involves local, state, and federal agencies and
36 the public, including landowners within the plan area. The process
37 should encourage the active participation and support of
38 landowners and others in the conservation and stewardship of
39 natural resources in the plan area during plan development using
40 appropriate measures, including incentives.



1 2802. The Legislature further finds and declares that it is the
2 policy of the state to conserve, protect, restore, and enhance
3 natural communities. It is the intent of the Legislature to acquire
4 a fee or less than fee interest in lands consistent with approved
5 natural community conservation plans and to provide assistance
6 with the implementation of those plans.

7 2805. The definitions in this section govern the construction
8 of this chapter:

9 (a) “Adaptive management” means to use the results of new
10 information gathered through the monitoring program of the plan
11 and from other sources to adjust management strategies and
12 practices to assist in providing for the conservation of covered
13 species.

14 (b) “Changed circumstances” are reasonably foreseeable
15 circumstances that could affect a covered species or geographic
16 area covered by the plan.

17 (c) “Conserve,” “conserving,” and “conservation” mean to
18 use, and the use of, methods and procedures within the plan area
19 that are necessary to bring any covered species to the point at
20 which the measures provided pursuant to Chapter 1.5
21 (commencing with Section 2050) are not necessary, and for
22 covered species that are not listed pursuant to Chapter 1.5
23 (commencing with Section 2050), to maintain or enhance the
24 condition of a species so that listing pursuant to Chapter 1.5
25 (commencing with Section 2050) will not become necessary.

26 (d) “Covered species” means those species, *both listed*
27 *pursuant to Chapter 1.5 (commencing with Section 2050) and*
28 *nonlisted*, conserved and managed under an approved natural
29 community conservation plan and that may be authorized for take.

30 (e) “Department assurance” means the department’s
31 commitment pursuant to subdivision (f) of Section 2820.

32 (f) “Monitoring program” means a program within an
33 approved natural community conservation plan that provides
34 periodic evaluations of monitoring results to assess the adequacy
35 of the mitigation and conservation strategies or activities and to
36 provide information to direct the adaptive management program.
37 The monitoring program shall, to the extent practicable, also be
38 used to meet the monitoring requirements of Section 21081.6 of
39 the Public Resources Code. A monitoring program includes all of
40 the following:



1 (1) Surveys to determine the status of biological resources
2 addressed by the plan, including covered species.

3 (2) Periodic accountings and assessment of authorized take.

4 (3) Progress reports on all of the following matters:

5 (A) Establishment of habitat reserves or other measures that
6 provide equivalent conservation of covered species and providing
7 funding where applicable.

8 (B) Compliance with the plan and the implementation
9 agreement by the wildlife agencies, local governments, and
10 landowners who have responsibilities under the plan.

11 ~~(C) Implementation of mitigation requirements, including~~
12 ~~assessments to ensure that habitat preservation or other measures~~
13 ~~that provide equivalent conservation of covered species required~~
14 ~~in the plan are proceeding roughly proportional in time and extent~~
15 ~~to the impact of any taking and habitat disturbance authorized~~
16 ~~under the plan.~~

17 *(C) Measurements to determine if mitigation and conservation*
18 *measures are being implemented roughly proportional in time and*
19 *extent to the impact on habitat or covered species authorized under*
20 *the plan.*

21 (D) Evaluation of the effectiveness of the plan in meeting the
22 conservation objectives of the plan.

23 (E) Maps of land use changes in the plan area that may affect
24 habitat values or covered species.

25 (4) A schedule for conducting monitoring activities.

26 (g) “Natural community conservation plan” or “plan” means
27 the plan prepared pursuant to a planning agreement entered into in
28 accordance with subdivision (a) of Section 2810. The plan shall
29 identify and provide for those measures necessary to conserve and
30 manage natural biological diversity within the plan area while
31 allowing compatible and appropriate economic development,
32 growth, and other human uses.

33 (h) “Person” has the same meaning as defined in Section
34 711.2.

35 (i) “Plan participant,” prior to approval of a natural
36 community conservation plan and execution of an implementation
37 agreement, means a signatory to the planning agreement. Upon
38 approval of a natural community conservation plan and execution
39 of an implementation agreement, plan participants *and any local*

1 *agency that is a signatory to the implementing agreement* are the
2 permittees.

3 (j) “Unforeseen circumstances” means changes affecting one
4 or more species, habitat, natural community, or the geographic
5 area covered by a conservation plan that could not reasonably have
6 been anticipated at the time of plan development, and that result
7 in a substantial adverse change in the status of one or more covered
8 species.

9 (k) “Wildlife” has the same meaning as defined in Section
10 711.2.

11 (l) “Wildlife agencies” means the department and one or both
12 of the following:

13 (1) United States Fish and Wildlife Service.

14 (2) National Marine Fisheries Service.

15 2809. Any person, or any local, state, or federal agency,
16 independently, or in cooperation with other persons, may
17 undertake natural community conservation planning.

18 2810. (a) The department may enter into an agreement with
19 any person or public entity for the purpose of preparing a natural
20 community conservation plan, in cooperation with a local agency
21 that has land use permit authority over the activities proposed to
22 be addressed in the plan, to provide comprehensive management
23 and conservation of multiple wildlife species, including, but not
24 limited to, those species listed pursuant to Article 2 (commencing
25 with Section 2070) of Chapter 1.5. The agreement shall include a
26 provision specifying the amount of compensation, if any, payable
27 to the department pursuant to Section 2829.

28 (b) The agreement shall meet all of the following conditions:

29 (1) The agreement shall be binding upon the department, other
30 participating federal, state, and local agencies, and participating
31 private landowners.

32 (2) The agreement shall define the geographic scope of the
33 conservation planning area.

34 (3) The agreement shall identify a preliminary list of those
35 natural communities, and the endangered, threatened, candidate,
36 or other species known, or reasonably expected to be found, in
37 those communities, that are intended to be the initial focus of the
38 plan.

39 (4) The agreement shall identify preliminary conservation
40 objectives for the planning area.

1 (5) The agreement shall establish a process for the inclusion of
2 independent scientific input to assist the department and plan
3 participants, and to do all of the following:

4 (A) Recommend scientifically sound conservation strategies
5 for species and natural communities proposed to be covered by the
6 plan.

7 (B) Recommend a set of reserve design principles that
8 addresses the needs of species, landscapes, ecosystems, and
9 ecological processes in the planning area proposed to be addressed
10 by the plan.

11 (C) Recommend management principles and conservation
12 goals that can be used in developing a framework for the
13 monitoring and adaptive management component of the plan.

14 (D) Identify data gaps and uncertainties so that risk factors can
15 be evaluated.

16 (6) The agreement shall require coordination with federal
17 wildlife agencies with respect to the federal Endangered Species
18 Act (16 U.S.C. Sec. 1531 et seq.).

19 (7) The agreement shall encourage concurrent planning for
20 wetlands and waters of the United States.

21 (8) The agreement shall establish an interim process during
22 plan development for project review wherein discretionary
23 projects within the plan area subject to Division 13 (commencing
24 with Section 21000) of the Public Resources Code that potentially
25 conflict with the preliminary conservation objectives in the
26 planning agreement are reviewed by the department prior to, or as
27 soon as possible after the project application is deemed complete
28 pursuant to Section 65943 of the Government Code and the
29 department recommends mitigation measures or project
30 alternatives that would help achieve the preliminary conservation
31 objectives. As part of this process, information developed
32 pursuant to paragraph (5) of subdivision (b) of Section 2810 shall
33 be taken into consideration by the department and plan
34 participants. Any take of candidate, threatened, or endangered
35 species that occurs during this interim period shall be included in
36 the analysis of take to be authorized under an approved plan.
37 Nothing in this paragraph is intended to authorize take of
38 candidate, protected, or endangered species.



1 (9) The agreement shall establish a process for public
2 participation throughout the plan development and review
3 pursuant to Section 2815.

4 (c) The approval of the planning agreement is not a project
5 pursuant to Division 13 (commencing with Section 21000) of the
6 Public Resources Code.

7 (d) Prior to department approval of the planning agreement, the
8 public shall have 21 calendar days to review and comment on the
9 proposed planning agreement.

10 2815. The department shall establish, in cooperation with the
11 parties to the planning agreement, a process for public
12 participation throughout plan development and review to ensure
13 that interested persons, including landowners, have an adequate
14 opportunity to provide input to lead agencies, state and federal
15 wildlife agencies, and others involved in preparing the plan. The
16 public participation objectives of this section may be achieved
17 through public working groups or advisory committees,
18 established early in the process. This process shall include all of
19 the following:

20 (a) A requirement that draft documents associated with a
21 natural community conservation plan that are being considered for
22 adoption by the plan lead agency shall be available for public
23 review and comment for at least 60 days prior to the adoption of
24 that draft document. Preliminary public review documents shall be
25 made available by the ~~responsible public~~ plan lead agency at least
26 10 working days prior to any public hearing addressing these
27 documents. The review period specified in this subdivision may
28 run concurrently with the review period provided for any
29 document required by the California Environmental Quality Act
30 (Division 13 (commencing with Section 21000) of the Public
31 Resources Code) that is associated with the natural community
32 conservation plan. This subdivision shall not be construed to limit
33 the discretion of a public agency to revise any draft documents at
34 a public hearing.

35 (b) A requirement to make available in a reasonable and timely
36 manner all draft plans, memoranda of understanding, maps,
37 conservation guidelines, species coverage lists, and other planning
38 documents associated with a natural community conservation plan
39 that are subject to public review.



1 (c) A requirement that all public hearings held during plan
2 preparation or review for approval are complementary to, or
3 integrated with, those hearings otherwise provided by law.

4 (d) An outreach program to provide access to information for
5 persons interested in the plan, including landowners, with an
6 emphasis on obtaining input from a balanced variety of affected
7 public and private interests, including state and local governments,
8 county agricultural commissioners, agricultural organizations,
9 landowners, conservation organizations, and the general public.

10 ~~(e) A nonbinding reasonable schedule for the preparation of the~~
11 ~~plan and the consequences to species, plan participants, and~~
12 ~~landowners if the development of the plan takes longer than~~
13 ~~estimated.~~

14 2820. (a) The department shall approve a natural community
15 conservation plan for implementation after making the following
16 findings, based upon substantial evidence in the record:

17 (1) The plan has been developed consistent with the process
18 identified in the planning agreement entered into pursuant to
19 Section 2810.

20 (2) The plan integrates adaptive management strategies that are
21 periodically evaluated and modified based on the information
22 from the monitoring program and other sources, which will assist
23 in providing for the conservation of covered species and
24 ecosystems within the plan area.

25 (3) The plan provides for the protection of habitat, natural
26 communities, and species diversity on a landscape or ecosystem
27 level through the creation and long-term management of habitat
28 reserves or other ~~equivalent conservation measures~~ *measures that*
29 *provide equivalent conservation of covered species* appropriate for
30 land, aquatic, and marine habitats within the plan area.

31 (4) The development of reserve systems and conservation
32 measures in the plan area provides, as needed for the conservation
33 of species, all of the following:

34 (A) Conserving, restoring, and managing representative
35 natural and seminatural landscapes to maintain the ecological
36 integrity of large habitat blocks, ecosystem function, and
37 biological diversity.

38 (B) Establishing one or more reserves *or other measures* that
39 provide equivalent conservation of covered species within the plan

1 area and linkages between them and adjacent habitat areas outside
2 of the plan area.

3 (C) Protecting and maintaining habitat areas that are large
4 enough to support sustainable populations of covered species.

5 (D) Incorporating a range of environmental gradients (such as
6 slope, elevation, aspect, and coastal or inland characteristics) and
7 high habitat diversity to provide for shifting species distributions
8 due to changed circumstances.

9 (E) Sustaining the effective movement and interchange of
10 organisms between habitat areas in a manner that maintains the
11 ecological integrity of the habitat areas within the plan area.

12 (5) The plan identifies activities, and any restrictions on those
13 activities, allowed within reserve areas that are compatible with
14 the conservation of species, habitats, natural communities, and
15 their associated ecological functions.

16 (6) The plan contains specific conservation measures that meet
17 the biological needs of covered species and that are based upon the
18 best available scientific information regarding the status of
19 covered species and the impacts of permitted activities on those
20 species.

21 (7) The plan contains a monitoring program.

22 (8) The plan contains an adaptive management program.

23 (9) The plan includes the estimated timeframe and process by
24 which the reserves or other conservation measures are to be
25 implemented, including obligations of landowners and plan
26 signatories and consequences of the failure to acquire lands in a
27 timely manner.

28 (10) The plan contains provisions that ensure adequate funding
29 to carry out the conservation actions identified in the plan.

30 (b) A natural community conservation plan approved pursuant
31 to this section shall include an implementation agreement that
32 contains all of the following:

33 (1) Provisions defining species coverage, including any
34 conditions of coverage.

35 (2) Provisions for establishing the long-term protection of ~~the~~
36 *any* habitat reserve or other measures that provide equivalent
37 conservation of covered species.

38 (3) Specific terms and conditions, which, if violated, would
39 result in the suspension or revocation of the permit, in whole or in
40 part. The department shall include a provision requiring

notification to the ~~permitholder~~ *plan participant* of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions the department shall take under all of the following circumstances:

(A) If the ~~permitholder~~ *plan participant* fails to provide adequate funding.

(B) If the ~~permitholder fails to maintain the~~ *plan participant fails to maintain the rough* proportionality between ~~take~~ *impacts on habitat or covered species* and conservation measures.

(C) If the ~~permitholder~~ *plan participant* adopts, amends, or approves any plan or project without the concurrence of the wildlife agencies that is inconsistent with the objectives and requirements of the approved plan.

(D) If the level of take exceeds that authorized by the permit.

(4) Provisions specifying procedures for amendment of the plan and the implementation agreement.

(5) Provisions ensuring implementation of the monitoring program and adaptive management program.

(6) Provisions for oversight of plan implementation for purposes of assessing mitigation performance, funding, and habitat protection measures.

(7) Provisions for periodic reporting to the wildlife agencies and the public for purposes of information and evaluation of plan progress.

(8) Mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan.

(9) Provisions to ensure that implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan. These provisions shall identify the conservation measures, including assembly of reserves where appropriate and implementation of monitoring and management activities, that will be maintained or carried out in rough proportion to the impact on habitat or covered species and the measurements that will be used to determine if this is occurring.

(c) If a ~~permitholder~~ *plan participant* does not maintain the proportionality between take and conservation measures specified in the implementation agreement and does not either cure the default within 45 days or enter into an agreement with the

1 department within 45 days to expeditiously cure the default, the
2 department shall suspend or revoke the permit, in whole or in part.

3 (d) Any data and reports associated with the monitoring
4 program required by this section shall be available for public
5 review. The entity managing the plan shall also conduct public
6 workshops on an annual basis to provide information and evaluate
7 progress toward attaining the conservation objectives of the plan.

8 (e) To the extent provided pursuant to Division 13
9 (commencing with Section 21000) of the Public Resources Code
10 and any guidelines adopted pursuant thereto, if the impacts on one
11 or more covered species and its habitat are analyzed and mitigated
12 pursuant to a program environmental impact report for a plan
13 adopted pursuant to this chapter, a plan participant that is a lead
14 agency or a responsible agency under that division shall
15 incorporate ~~into the plan in the review of any subsequent project~~
16 ~~in the plan area the feasible mitigation measures and alternatives~~
17 ~~related to the biological impacts on covered species and their~~
18 ~~habitat developed in the program environmental impact report.~~
19 ~~However, nothing in this subdivision limits or abridges the~~
20 ~~applicability of Division 13 (commencing with Section 21000),~~
21 ~~including Section 21166 of the Public Resources Code, to a project~~
22 ~~in a plan adopted pursuant to this chapter. report.~~

23 (f) The department may provide assurances for plan
24 participants commensurate with long-term conservation
25 assurances and associated implementation measures pursuant to
26 the approved plan.

27 (1) When providing assurances pursuant to this subdivision,
28 the department's determination of the level of assurances and the
29 time limits specified in the implementation agreement for
30 assurances may be based on localized conditions and shall
31 consider all of the following:

32 (A) The level of knowledge of the status of the covered species
33 and natural communities.

34 (B) The adequacy of analysis of the impact of take on covered
35 species.

36 (C) The use of the best available science to make assessments
37 about the impacts of take, the reliability of mitigation strategies,
38 and the appropriateness of monitoring techniques.

39 (D) The appropriateness of the size and duration of the plan
40 with respect to quality and amount of data.

1 (E) The sufficiency of mechanisms for long-term funding of all
2 components of the plan and contingencies.

3 (F) The degree of coordination and accessibility of centralized
4 data for analysis and evaluation of the effectiveness of the plan.

5 (G) The degree to which a thorough range of foreseeable
6 circumstances are considered and provided for under the adaptive
7 management program.

8 (H) The size and duration of the plan.

9 (2) If there are unforeseen circumstances, additional land,
10 water, or financial compensation or additional restrictions on the
11 use of land, water, or other natural resources shall not be required
12 without the consent of plan participants for a period of time
13 specified in the implementation agreement, unless the department
14 determines that the plan is not being implemented consistent with
15 the *substantive* terms of the implementation agreement.

16 2821. ~~(a)~~ Concurrent with the approval by the department of
17 a final natural community conservation plan, the department shall
18 ~~establish~~ *do both of the following*:

19 (a) *Establish* a list of species that are authorized for take
20 pursuant to Section 2835 and the department shall make specific
21 findings to support coverage pursuant to Section 2820. For
22 purposes of determining whether a species should receive
23 coverage under a plan, the department shall use, in addition to the
24 standards required for the adoption of a plan, one or more of the
25 following criteria:

26 (1) Coverage is warranted based upon regional or landscape
27 level consideration, such as healthy population levels, widespread
28 distribution throughout the plan area, and life history
29 characteristics that respond to habitat-scale conservation and
30 management actions.

31 (2) Coverage is warranted based on regional or landscape level
32 considerations with site specific conservation and management
33 requirements that are clearly identified in the plan for species that
34 are generally well-distributed, but that have core habitats that must
35 be conserved.

36 (3) Coverage is warranted based upon site specific
37 considerations and the identification of specific conservation and
38 management conditions for species within a narrowly defined
39 habitat or limited geographic area within the plan area.

1 (b) Find that the mitigation measures specified in the plan and
2 imposed by the plan participants are consistent with subdivision
3 (d) of Section 2801.

4 2822. The department may seek injunctive relief against any
5 plan participant, person, or entity to enforce this chapter.

6 2823. The department shall suspend or revoke any permit, in
7 whole or in part, issued for the take of a species subject to Section
8 2835 if ~~the department determines that~~ the continued take of the
9 species would result in jeopardizing the continued existence of the
10 species.

11 2825. The department may adopt regulations for the
12 development and implementation of natural community
13 conservation plans consistent with this chapter.

14 2826. Nothing in this chapter exempts a project proposed in
15 a natural community conservation planning area from ~~the~~
16 ~~requirements of~~ Division 13 (commencing with Section 21000) of
17 the Public Resources Code or otherwise alters or affects the
18 applicability of that division.

19 2827. To the extent practicable, implementation of natural
20 community conservation plans shall use the services of either the
21 California Conservation Corps or local community conservation
22 corps.

23 2828. Nothing in this chapter prohibits a local government
24 from exercising any power or authority granted to it pursuant to
25 state law to acquire land or water to implement a plan.

26 2829. (a) The department may be compensated for the actual
27 costs incurred in participating in the preparation and
28 implementation of natural community conservation plans. These
29 costs may include consultation with other parties to agreements
30 authorized by Section 2810, providing and compiling wildlife and
31 wildlife habitat data, reviewing and approving the final plan,
32 monitoring implementation of the plan, and other activities
33 necessary to the preparation and implementation of a plan.

34 (b) The department may be compensated for those expenses
35 identified in subdivision (a) according to a schedule in the
36 agreement authorized by Section 2810.

37 2830. Nothing in this chapter prohibits the taking or the
38 incidental take of any identified species if the taking is authorized
39 by the department pursuant to any of the following:

(a) A natural community conservation plan or amended plan approved by the department prior to January 1, 2002. Any permits, plans, implementation agreements, and amendments to those permits, plans, or implementation agreements described in this section are deemed to be in full force and effect as of the date approved or entered into by the parties insofar as they authorize the take of identified species pursuant to an approved natural community conservation plan and shall be governed solely by former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001.

(b) Any natural community conservation plan, or subarea plan, approved, or amended on or after January 1, 2002, for which a planning or enrollment agreement meets any of the following criteria, *which shall be solely governed in accordance with former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001:*

(1) The natural community conservation plan was entered into between the department and plan participants prior to January 1, 2001, and is carried out pursuant to Rule 4(d) for the California Gnatcatcher (Federal Register Volume 58, December 10, 1993), including the southern subregion of Orange County.

(2) The natural community conservation plan was prepared pursuant to *the planning agreement for the San Diego Multiple Species Conservation Plan*.

(3) The natural community conservation plan was prepared pursuant to *the planning agreement for the San Diego Multiple Habitat Conservation Plan* and ~~shall be solely governed by former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001.~~

(c) Any programmatic natural community conservation plan approved by the department on or before January 1, 2002.

(d) Any natural community conservation plan developed pursuant to a planning or enrollment agreement executed on or before January 1, 2001, and for which the department finds that the plan has been developed using a public participation and scientific analysis process substantially in conformance with the intent of paragraph (5) of subdivision (b) of Section 2810 and Section 2815.

(e) Any natural community conservation plan developed pursuant to a planning agreement executed on or before January

1 1, 2002, and which the department finds is in substantial
2 compliance with Section 2820.
3 2835. ~~The~~ *At the time of plan approval, the* department may
4 authorize by permit the taking of any covered species whose
5 conservation and management is provided for in a natural
6 community conservation plan approved by the department.



AMENDED IN SENATE SEPTEMBER 14, 2001

AMENDED IN SENATE AUGUST 31, 2001

AMENDED IN SENATE AUGUST 22, 2001

AMENDED IN SENATE JULY 18, 2001

AMENDED IN SENATE JULY 9, 2001

AMENDED IN SENATE JULY 2, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

AMENDED IN ASSEMBLY APRIL 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1414

Introduced by Assembly Members Dickerson and Florez

(Principal coauthor: Senator Oller)

(Coauthor: Assembly Member Aanestad)

February 23, 2001

An act to add Section 1019 to the Fish and Game Code, ~~and~~ to add Section 12805.2 to the Government Code, *and to add and repeal Section 5096.686 of the Public Resources Code*, relating to public land, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, as amended, Dickerson. Public lands.

(1) Existing law establishes the Department of Fish and Game in the Resources Agency.

This bill would require the department, *upon appropriation of funds by the Legislature for that purpose*, to prepare ~~and draft~~ management plans for all of its properties, which would describe the department's goals and strategies for managing the land and would identify and describe both ongoing and any other necessary restoration, rehabilitation, and improvement projects for the land. The bill would require the department, for parcels wholly within its jurisdiction acquired on or after January 1, 2002, to complete draft management plans ready for public review within 18 months of the recordation date. The bill would require the department to report, on or before February 1 of each year, to the appropriate legislative ~~budget~~ *fiscal* subcommittees regarding the plans.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to carry out the Fish and Game Code. Because this bill would impose duties on the department, the bill would make an appropriation.

(3) Existing law establishes the Resources Agency in state government, under the supervision of the Secretary of the Resources Agency.

This bill would ~~require the secretary to take specified action with respect to the acquisition of land by departments, boards, commissions, and conservancies within the agency, including requiring the secretary to compile information in that regard and providing also, upon appropriation of funds by the Legislature for that purpose, require the Resources Agency, in conjunction with each department, board conservancy, and commission within that agency, to develop and maintain a database of lands and easements that have been acquired by the departments and boards within the agency. The bill would require the Resources Agency to provide a report to the Governor and the Legislature on or before December 31, 2002~~ *2003, and each year thereafter.*

The bill would also require the Resources Agency, until January 1, 2010, to prepare an annual report summarizing expenditures on the California Clean Water, Safe Neighborhood Parks, and Coastal Protection Bond Act of 2002, if that act is enacted by the Legislature during the 2001–02 Regular Session of the Legislature.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. (a) The Legislature finds and declares that the State Auditor determined the following in a report entitled “California’s Wildlife Habitat and Ecosystem: The State Needs to Improve Its Land Acquisition Planning and Oversight”:~~

~~(1) The two departments that are acquiring the most land for wildlife and habitat and ecosystem purposes have not performed key tasks for managing these properties. Specifically, the Department of Fish and Game and the Department of Parks and Recreation have not prepared management plans for at least one-third of their properties, use outdated management plans for many properties, inadequately manage some land because they have not achieved certain management objectives or undertaken specific projects, and insufficiently document their management efforts.~~

~~(2) The state needs to improve its land acquisition planning and oversight.~~

~~(3) These departments should prepare final plans for all of their properties and parks that describe goals and strategies for managing the land, update their older land management or general plans, perform restoration, rehabilitation, and improvement projects, as well as periodic inspections of all land, in accordance with their land management or general plans.~~

~~(b) It is the intent of the Legislature to encourage the use of cooperative agreements and easements to accomplish ecosystem restoration or habitat preservation goals on private land.~~

~~SEC. 2.—~~

~~SECTION 1. It is the intent of the Legislature in enacting this act to ensure that the Department of Fish and Game corrects the deficiencies identified by the State Auditor described in Section 1 and to establish a uniform statewide process for acquiring lands with oversight by the Resources Agency.~~

~~SEC. 3.—that the Resources Agency coordinate the land acquisition and land management activities of the departments, boards, commissions, and conservancies within the agency in order to improve state planning and oversight.~~

~~SEC. 2. Section 1019 is added to the Fish and Game Code, to read:~~

~~1019. (a) The department may seek to achieve ecosystem restoration and habitat preservation goals through cooperative agreements or easements with landowners. Nothing in this subdivision shall preclude the purchase of land.~~

~~(b) The department shall prepare land management plans for all of its properties, whether in existence on the effective date of the act adding this section, or acquired in the future. The land management plans shall describe the department's goals and strategies for managing the land and public access opportunities, such as hiking, hunting, fishing, camping, or environmental or historical education, in a manner that is compatible with the primary goal of the plan, and shall identify and describe both ongoing and any other necessary restoration, rehabilitation, and improvement projects and related costs. To the extent that public access is prohibited or otherwise limited, the department shall describe the basis for, and duration of, the limitation.~~

~~(c) For parcels wholly within its jurisdiction acquired on or after January 1, 2002, the department shall complete draft management plans ready for public review within 18 months of the recordation date. The department shall submit, on or before February 1 of each year, to the appropriate budget subcommittee of each house of the Legislature, a list of plans for lands acquired during the past year and a list of lands acquired during the last year for which plans are not yet complete. The subcommittee shall consider these lists in its budget decisions for the department.~~

~~SEC. 4. Section 12805.2 is added to the Government Code, to read:~~

~~12805.2. The Secretary of the Resources Agency shall do all of the following:~~

~~(a)–~~

1019. (a) Subject to an appropriation of funds by the Legislature for that purpose for parcels wholly within its jurisdiction acquired on or after January 1, 2002, the department shall prepare draft management plans for public review within 18 months of the recordation date.

(b) (1) On or before February 1 of each year, the department shall submit a list of lands acquired during the previous two fiscal years and the status of the management plans for each acquisition to the fiscal committees of each house of the Legislature.

1 (2) *Each fiscal committee in the Legislature shall consider the*
2 *lists described in paragraph (1) in its budget decisions for the*
3 *department.*

4 SEC. 3. *Section 12805.2 is added to the Government Code, to*
5 *read:*

6 12805.2. (a) *The Resources Agency, in consultation with*
7 *each department, board, conservancy, and commission within the*
8 *agency, shall develop and maintain a database of lands and*
9 *easements that have been acquired by the departments and boards*
10 *within the Resources Agency. The database shall include, but need*
11 *not be limited to, all of the following:*

12 (1) *The name of the owner of the land or easement.*

13 (2) *The location of the land or easement.*

14 (3) *The statutory authority for the acquisition of the land or*
15 *easement.*

16 (b) *In conjunction with the database described in subdivision*
17 *(a), the Resources Agency shall do all of the following:*

18 (1) *On or before September 1, 2002, and each year thereafter,*
19 *request that all departments, boards, commissions, and*
20 *conservancies within the Resources Agency provide the Secretary*
21 *of the Resources Agency with information, including a description*
22 *of the land and the purpose for which the land was acquired, of any*
23 *on any acquisitions of land or funding that was directed to the*
24 *acquisition of land, undertaken by the department, board,*
25 *commission, or conservancy.*

26 ~~(b) On or before January 10, 2002~~

27 (2) *To the extent that the information is available, on or before*
28 *January 10, 2003, and each year thereafter, require that all*
29 *departments, boards, commissions, and conservancies within the*
30 *Resources Agency provide the Secretary of the Resources Agency*
31 *with general information, including a general geographic*
32 *description of land acquisition priorities during the next fiscal*
33 *year, the purpose for which the land is to be acquired, and the*
34 *projected annual cost and funding source for the proposed*
35 *acquisition, restoration, management, and monitoring of these*
36 *lands, and potential funding sources during the next fiscal year.*

37 ~~(c) Review~~

38 (3) *To the extent feasible, review and evaluate any available*
39 *information from federal agencies pertaining to their its land*

1 acquisition activities to coordinate and better understand ~~their~~ *the*
2 impact on California state proposals.

3 ~~(d) Compile the information provided in subdivisions (a) to (c),~~
4 ~~inclusive, and provide~~

5 (4) Provide a report to the Governor and the Legislature on or
6 before December 31, ~~2002~~ 2003, and each year thereafter, that
7 does both of the following:

8 ~~(1)–~~

9 (A) Describes the amount of land acquired by each department,
10 board, commission, and conservancy within the Resources
11 Agency during the past year and the amount of money spent for the
12 acquisition.

13 ~~(2)–~~

14 (B) Projects the approximate amount of land that will be
15 acquired by the Resources Agency during the following year.

16 ~~(e)–~~

17 (5) Provide the report described in subdivision (d) to the
18 Secretary of Food and Agriculture and the Director of
19 Conservation.

20 ~~(f) Establish a uniform public process to ensure that local,~~

21 (6) Establish a uniform open process to ensure that information
22 is readily available to the general public, local, state, and federal
23 agencies, adjacent landowners, and other interested parties of
24 record ~~are given notice~~ regarding of any state hearings to approve
25 proposed state land acquisitions.

26 ~~(g)–~~

27 (7) Develop strategies with local, state, and federal agencies so
28 that a revenue stream is established to ensure management plans
29 are adequately funded for all new acquisitions.

30 (c) *This section shall be implemented only during those fiscal*
31 *years for which funding is provided for the purposes of this section*
32 *in the annual Budget Act or in another measure.*

33 SEC. 4. Section 5096.686 is added to the Public Resources
34 Code, to read:

35 5096.686. (a) *The Resources Agency shall prepare an annual*
36 *summary report of expenditures on the California Clean Water,*
37 *Safe Neighborhood Parks, and Coastal Protection Bond Act of*
38 *2002, if that act is enacted during the 2001–02 Regular Session of*
39 *the Legislature, and shall make that information available to the*

1 *public through the Internet and any other means the Resources*
2 *Agency determines is cost effective.*
3 *(b) This section shall remain in effect only until January 1,*
4 *2010, and as of that date is repealed, unless a later enacted statute*
5 *that is enacted before January 1, 2010, deletes or extends that date.*

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